

CHAPTER 1293

S.B. No. 344

AN ACT

relating to an exemption from ad valorem taxation for certain property acquired for use for a school.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 11.21, Tax Code, is amended by adding Subsection (f) to read as follows:

(f) Notwithstanding Subsection (a), a person is entitled to an exemption from taxation of the buildings and tangible personal property the person acquires for use for a school that meets each requirement of Subsection (d) if:

(1) the person authorizes the former owner to continue to use the property pending the use of the property for a school; and

(2) the former owner would be entitled to an exemption from taxation of the property if the former owner continued to own the property.

SECTION 2. The chief appraiser of an appraisal district shall accept and approve or deny an application for an exemption from ad valorem taxation under Subsection (f), Section 11.21, Tax Code, as added by this Act, for the ad valorem tax year that began January 1, 1997, if the application is filed as provided by Section 11.434, Tax Code.

SECTION 3. This Act takes effect September 1, 1997.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on February 26, 1997: Yeas 31, Nays 0; passed the House on May 28, 1997, by a non-record vote.

Approved June 20, 1997.

Effective Sept. 1, 1997.

CHAPTER 1294

S.B. No. 349

AN ACT

relating to guardians ad litem, attorneys ad litem, and child volunteer advocates in certain suits affecting the parent-child relationship.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 107.001, Family Code, is amended to read as follows:

Sec. 107.001. APPOINTMENT OF GUARDIAN AD LITEM. (a) In a suit in which termination of the parent-child relationship is requested, the court or an associate judge shall appoint a guardian ad litem to represent the interests of the child immediately after the filing of the petition but before the full adversary hearing to ensure adequate representation of the child, unless:

(1) the child is a petitioner;

(2) an attorney ad litem has been appointed for the child; or

(3) the court or an associate judge finds that the interests of the child will be represented adequately by a party to the suit and are not adverse to that party.

(b) *In a suit filed by a governmental entity in which the entity requests the termination of the parent-child relationship or to be named conservator of a child, the court or an associate judge shall appoint a guardian ad litem to represent the best interests of the child*

immediately after the filing of the petition but before the full adversary hearing to ensure adequate representation of the child.

(c) In any other suit, the court or an associate judge may appoint a guardian ad litem.

(d) *A guardian ad litem appointed under this section may be an attorney, a volunteer advocate appointed under Section 107.031, or another adult having the competence, training, and expertise determined by the court to be sufficient to represent the best interests of the child.*

(e) ~~[(e)]~~ The managing conservator may be appointed guardian ad litem if the managing conservator:

(1) is not a parent of the child or a person petitioning for adoption of the child; and

(2) has no personal interest in the suit.

(f) ~~[(d)]~~ A guardian ad litem shall be appointed to represent any other person entitled to service of citation under this code if the person is incompetent or a child, unless the person has executed an affidavit of relinquishment of parental rights or an affidavit of waiver of interest in child containing a waiver of service of citation.

SECTION 2. Section 107.002, Family Code, is amended to read as follows:

Sec. 107.002. **POWERS AND DUTIES OF GUARDIAN ~~[ATTORNEY]~~ AD LITEM.** (a) *A guardian ad litem appointed under this subchapter is not a party to the suit but may:*

(1) *conduct an investigation to the extent that the guardian ad litem considers necessary to determine the best interest of the child for whom the guardian is appointed; and*

(2) *obtain and review copies of the child's relevant medical, psychological, and school records.*

(b) *A guardian ad litem appointed under this subchapter shall, within a reasonable time after the appointment, interview:*

(1) *the child, if the child is four years of age or older; and*

(2) *each individual that the guardian ad litem considers likely to have significant knowledge of the child's history and condition.*

(c) *A guardian ad litem appointed under this subchapter is not a party to the suit but is entitled to:*

(1) *receive a copy of each pleading or other paper filed with the court in the case in which the guardian ad litem is appointed;*

(2) *receive notice of each hearing in the case;*

(3) *participate in case staffings by an authorized agency concerning the child;*

(4) *attend all legal proceedings in the case but may not call or question a witness unless the ad litem is a licensed attorney;*

(5) *review and sign or decline to sign any agreed order affecting the child; and*

(6) *testify in court, except as provided by Subsection (d), regarding the recommendations concerning the actions that the guardian ad litem considers to be in the best interest of the child, including giving reasons for the guardian ad litem's opposition if the guardian ad litem does not agree to the terms of a proposed order.*

(d) *An attorney who is appointed as attorney ad litem and guardian ad litem for a child may not testify under Subsection (c)(6).*

(e) *An attorney who is appointed as attorney ad litem and guardian ad litem for a child shall:*

(1) *become familiar with the American Bar Association's standards of practice for lawyers who represent children in abuse and neglect cases; and*

(2) *comply with the requirements of the Texas Disciplinary Rules of Professional Conduct.*

(f) *An attorney who is appointed as attorney ad litem and guardian ad litem for a child and who determines that a conflict exists by performing both roles shall:*

(1) *withdraw as the child's guardian ad litem;*

(2) continue to serve as the child's attorney ad litem; and

(3) request appointment of a new guardian ad litem for the child without revealing the reason a new appointment is required.

~~[(c) A court is not required under this section to appoint an attorney ad litem in a proceeding in which:~~

~~[(1) a suit for the dissolution of a marriage is uncontested; or~~

~~[(2) the issues of possession of and access to a child are agreed to by both parents.]~~

SECTION 3. Subchapter A, Chapter 107, Family Code, is amended by adding Section 107.003 to read as follows:

Sec. 107.003. IMMUNITY. (a) A guardian ad litem appointed under this subchapter is not liable for civil damages arising from a recommendation made or an opinion given in the capacity of guardian ad litem.

(b) Subsection (a) does not apply to a recommendation or opinion that is:

(1) wilfully wrongful;

(2) given with conscious indifference or reckless disregard to the safety of another;

(3) given in bad faith or with malice; or

(4) grossly negligent.

SECTION 4. Subsections (a) and (c), Section 107.006, Family Code, are amended to read as follows:

(a) The local administrative district judge in each county in a Department of Protective and Regulatory Services region for child protective services that contains a county having a population of 2.8 million or more shall establish a pool from which guardians ad litem and attorneys ad litem are appointed for proceedings in the district courts of the county. A local administrative district judge in any other county may establish a pool from which guardians ad litem and attorneys ad litem are appointed for proceedings in the district courts of that county. To be eligible for a pool established under this subsection, a person must:

(1) complete training *approved* ~~provided~~ by the State Bar of Texas in family law and the responsibilities of ad litem;

(2) complete as part of the person's annual continuing legal education requirement not fewer than three hours in family law issues; and

(3) meet other requirements established by the local administrative district judge.

(c) A party to a proceeding in which a person is appointed as a guardian ad litem or an attorney ad litem may object to appointment of the person at any time before the date of the trial of the proceeding. A party may object under this subsection *by filing a written motion stating [on] the grounds and facts on which [that]* the party believes that the person appointed lacks objectivity or is failing to fulfill the person's responsibilities as an ad litem as outlined in the written statement of ad litem responsibilities. The court shall promptly rule on an objection raised under this subsection and shall order the removal of the guardian ad litem or attorney ad litem if the court finds that the objection is *justifiable* ~~reasonable~~.

SECTION 5. Subchapter B, Chapter 107, Family Code, is amended by adding Section 107.0135 to read as follows:

Sec. 107.0135. APPOINTMENT OF ATTORNEY AD LITEM NOT REQUIRED; CERTAIN CASES. A court is not required under this section to appoint an attorney ad litem in a proceeding in which:

(1) a suit for the dissolution of a marriage is uncontested; or

(2) the issues of possession of and access to a child are agreed to by both parents.

SECTION 6. Section 107.031, Family Code, is amended by adding Subsection (d) to read as follows:

(d) This section does not prohibit the court from appointing as a guardian ad litem for a child under Section 107.001 a court-certified volunteer advocate appointed for the child under this section.

SECTION 7. Section 264.602, Family Code, is amended by adding Subsection (d) to read as follows:

(d) The attorney general by rule shall adopt standards for a local volunteer advocate program. The statewide organization shall assist the attorney general in developing the standards.

SECTION 8. Subsection (a), Section 264.604, Family Code, is amended to read as follows:

(a) A person is eligible for a contract under Section 264.602 only if the person is a public or private nonprofit entity that operates a volunteer advocate program that:

- (1) uses individuals appointed as volunteer advocates *or guardians ad litem* by the court to provide for the needs of abused or neglected children;
- (2) has provided court-appointed advocacy services for at least two years;
- (3) provides court-appointed advocacy services for at least 10 children each month; and
- (4) has demonstrated that the program has local judicial support.

SECTION 9. Subsection (a), Section 264.607, Family Code, is amended to read as follows:

(a) The attorney general shall require that a contract under Section 264.602 require the volunteer advocate program to:

- (1) make quarterly and annual financial reports on a form provided by the attorney general;
- (2) cooperate with inspections and audits that the attorney general makes to ensure service standards and fiscal responsibility; and
- (3) provide as a minimum:
 - (A) independent and factual information *in writing* to the court and to counsel for the parties involved regarding the child;
 - (B) advocacy through the courts for permanent home placement and rehabilitation services for the child;
 - (C) monitoring of the child to ensure the safety of the child and to prevent unnecessary movement of the child to multiple temporary placements;
 - (D) reports *in writing* to the presiding judge and to counsel for the parties involved;
 - (E) community education relating to child abuse and neglect;
 - (F) referral services to existing community services;
 - (G) a volunteer recruitment and training program, including adequate screening procedures for volunteers; ~~and~~
 - (H) procedures to assure the confidentiality of records or information relating to the child; *and*
 - (I) *compliance with the standards adopted under Section 264.602.*

SECTION 10. This Act takes effect September 1, 1997, and applies to a suit affecting the parent-child relationship pending on that date or filed on or after that date.

SECTION 11. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on March 25, 1997, by a viva-voce vote; the Senate concurred in House amendments on May 28, 1997, by a viva-voce vote; passed the House, with amendments, on May 25, 1997, by a non-record vote.

Approved June 20, 1997.

Effective September 1, 1997.